

Status of an obliged person's spouse in the execution proceedings

Abstract

The topic of this rigorous thesis is “Status of an obliged person's spouse in the executory proceedings”. I got to this topic through my professional experience at the District Court of Prague 5, where I worked as an assistant of a judge for more than a year. As part of this work, I prepared decisions on the procedural motions of the parties to the execution proceedings, including the motions of the obliged person's spouse to a partial discontinuance of the execution proceedings for a judge. As a result of the fact, that I devoted to these motions because of their increasing number still more and my interest in the issue of affecting the property in the common property of the spouses and property values of the obliged person's spouse in the execution proceedings led to enforce the obliged person's debt and my knowledge about this issue got deeper, I have decided to deal with this topic in my rigorous thesis.

The aim of this thesis is to analyze the possibilities of affecting the property in the common property of the spouses and property values of the obliged person's spouse in the execution proceedings led to enforce obliged person's debt in a particular regimes of procedural legislation of affecting such property, based by the relevant amendments to the legislation of this subject, and to deal with the means of defense of obliged person's spouse against unjustified affection of such property in such an execution proceedings.

This rigorous thesis is divided into five chapters.

The first chapter is divided into three sections, whereas characterizes the execution proceedings and summarizes its course, defines the differences between the execution proceedings and the judicial execution of a decision and explains the applicability of the civil procedure code in the execution proceedings.

The second chapter defines the most important parties to the execution proceedings in four sections.

The third chapter, which consists of two sections, deals with the issue of responsibility of the spouses for debts and the institution of common property of spouses, which is for the status of obliged person's spouse in the execution proceedings led to enforce the obliged person's debt crucial. The first section concerns with the responsibility of spouses for debts and the common property of spouses, including the modification of the legal regime of the

common property of spouses, under the laws effective to 31.12.2013 and the second section concerns with the same issues under the laws effective since 1.1.2014, whereas it compares the previous, “old” legislation of the subject matter with the effective legislation.

The fourth chapter, which is made up of five sections, is a fundamental part of the thesis. This chapter is devoted to the possibilities of affection of the property in the common property of the spouses and property values of the obliged person’s spouse in the execution proceedings led to enforce obliged person’s debt in a particular modes of procedural legislation of affecting such property, based by the relevant amendments to the legislation of this subject, the impact of divorce of obliged person and his spouse on affecting property in the common property of spouses and property values of obliged person’s spouse in already initiated execution proceedings led to enforce obliged person’s debt and the possibilities of affecting the property in the common property of spouses after divorce of obliged person and his spouse in both before and after the divorce initiated execution proceedings led to enforce obliged person’s debt.

The last, fifth chapter, focuses on the means of defense of obliged person’s spouse against unjustified affection of the property in the common property of the spouses and property values of the obliged person’s spouse in the execution proceedings led to enforce obliged person’s debt.